

# Adoption of the Revised Statement of Licensing Policy Principles Under S.349 Of the Gambling Act 2005

<b>Committee considering report:</b>	Council
<b>Date of Committee:</b>	28 November 2024 (Council)
<b>Portfolio Member:</b>	Councillor Justin Pemberton
<b>Date Portfolio Member agreed report:</b>	08 October 2024
<b>Report Author:</b>	Moira Fraser
<b>Forward Plan Ref:</b>	C4519

## 1 Purpose of the Report

- 1.1 To consider the responses received during the eight-week consultation period on the revised draft Statement and make a recommendation to Council that it adopts the amended Statement of Licensing Policy Principles (hereafter referred to as The Statement) under the Gambling Act 2005 (the Act) as set out in Appendix A.

## 2 Recommendation

- 2.1 That Full Council:
- (a) **CONSIDERS** the Draft Statement and the consultation responses received.
  - (b) **DELEGATES** Authority to the Service Lead (Public Protection), in consultation with the Portfolio Holder, to make any minor corrections to the Statement prior to publication.
  - (c) **APPROVES** the Statement for adoption and publication by the 31<sup>st</sup> January 2025.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	The costs of producing this report and running the consultation exercise were met from within the existing Public Protection Partnership budgets.

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	There are no direct costs associated with the implementation of the Statement.			
<b>Human Resource:</b>	None. Implementation of the Statement will constitute Business as Usual for the Licensing Team.			
<b>Legal:</b>	This Statement of Principles must be published in accordance with s349 of Gambling Act 2005 (hereafter referred to as The Act) and is required to set out the principles that the licensing authority proposes to apply when exercising its functions under the Act. The licensing authority must publish its Statement of Principles at least every three years.			
<b>Risk Management:</b>	The Council is required to renew the statement every three years. A failure to do so and consult properly. could result in any decisions and the Statement being challenged in the Courts.			
<b>Property:</b>	None			
<b>Policy:</b>	The licensing authority must publish its Statement of Principles at least every three years. The previously adopted iteration is due to expire in January 2025. The Council is required to consult on any changes being proposed.			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				

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<p><b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?</p>		<p>X</p>	<p>In applying this policy, no particular group is given priority over another in relation to implementation of the Statement and how any applicant is dealt with. Applications are assessed on their individual merits. Where applicants ask for information in alternate formats these can be provided.</p> <p>The Council is not in a position where it can proactively affect the profile of licence holders, but the Statement ensures that the process of obtaining a licence is fair and free of discrimination and there are no barriers to anyone making an application.</p> <p>No comments received during the consultation related to equalities matters.</p> <p>On consideration, the overall conclusion of the EIA is that there is no negative impact on any characteristic or group as a result of this Statement.</p>
<p><b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?</p>		<p>X</p>	<p>The protection of children and other vulnerable people from gambling within the Statement clearly has a benefit relating to these groups. For most gambling activity you must be 18 (16 for some activities), and so the Statement of Principles protects those of this age. References to age are made throughout the document i.e. Protecting children from being harmed or exploited by gambling is a key Licensing objective enshrined in the legislation.</p> <p>Within society there are vulnerable people who may develop addictions to gambling. Whilst the law requires licensed gambling premises to monitor those who gamble regularly and also to have self-exclusion schemes, historically this has been a difficult problem to deal with. We did receive some comments around the definition of vulnerable people. Please see response in paragraphs 5.16 and 5.17 of the report.</p>

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<b>Environmental Impact:</b>		X		There are no environmental implications that result from the Statement.
<b>Health Impact:</b>		X		<p>Gambling related harm is recognised as a 'co-morbidity' (i.e. one of a range of conditions existing in an individual that exacerbates pre-existing conditions and contributes toward a reduced life expectancy). It is often observed in people who suffer from poor mental health, stress or anxiety, substance misuse and by those in financial difficulties.</p> <p>Information on some of these issues can be found on the Public Health for Berkshire website at: <a href="https://westberkshire.berkshireobserver.co.uk/health-and-social-care/">https://westberkshire.berkshireobserver.co.uk/health-and-social-care/</a></p> <p>This Statement sets out our expectations of operators of gambling premises and is kept under review.</p>
<b>ICT Impact:</b>		X		None
<b>Digital Services Impact:</b>		X		<p>The consultation and outcome were published on the Council's Consultation Hub as well as on the PPP website.</p> <p>The final Statement will be published on the Strategies, Policies and Plans webpage: <a href="#">Strategies, policies and plans - West Berkshire Council</a> and will also be published on the PPP's webpage: <a href="#">Gambling premises licences - PPP (publicprotectionpartnership.org.uk)</a></p>
<b>Council Strategy Priorities:</b>		X		<ul style="list-style-type: none"> <li>• Protecting and enhancing our environment</li> <li>• Stronger communities</li> <li>• Great place to live, learn and do business</li> </ul>
<b>Core Business:</b>		X		Enactment, administration and enforcement of this policy will constitute

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				business as usual activity for the Licensing Team
<b>Data Impact:</b>		X		All information collected as a result of the consultation and any data collected during the processing of applications will be dealt with in accordance with the relevant <a href="#">privacy statement</a> .
<b>Consultation and Engagement:</b>	The draft Statement of Gambling Policy was the subject of an eight-week public consultation.			

## 4 Executive Summary

- 4.1 This Statement has to be published in accordance with s349 of the Act and is required to set out the principles that the licensing authority proposes to apply when exercising its functions under the Act. The licensing authority must publish its Statement at least every three years. The current Statement is due to expire in January 2025.
- 4.2 The purpose of the Statement is to guide the administration of licensing under the Act and will assist in ensuring that an appropriate balance is drawn between the interests of those wishing to provide and take part in legal gambling, and those who might be affected by such activities. The Council continues to work with the Police, licence holders, responsible authorities and other agencies to achieve this objective.
- 4.3 Under the Act, the licensing authority is required to consult a number of parties as a minimum before finalising its Statement. The consultation, which was undertaken between the 18 July 2024 and 12 September 2024, has now been concluded and the responses collated.
- 4.4 The Licensing Committee considered the outcome of the consultation at the November 2024 meeting, supported the proposed changes to the draft statement arising from the consultation and resolved to recommend that Full Council adopt the Statement of Gambling Principles subject to the inclusion of any further amendments put forward by Full Council.

## 5 Supporting Information

### Introduction

- 5.1 The Act removed from the Magistrates' Court all responsibility for granting gaming and betting permissions. It introduced the Gambling Commission, which, alongside licensing authorities, assumed a shared responsibility for all matters previously regulated by Magistrates.
- 5.2 The Act came fully into effect on 1 September 2007. It created a revised system of licensing and regulation for commercial gambling. This Act gives the 'Licensing

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Authority' a number of important regulatory functions in relation to gambling. The main functions are to:

- licence premises for gambling activities.
- consider notices given for the temporary use of premises for gambling.
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes.
- regulate gaming and gaming machines in alcohol licensed premises.
- grant permits to family entertainment centres for the use of certain lower stake gaming machines.
- grant permits for prize gaming.
- consider occasional use notices for betting at tracks; and
- register small societies' lotteries.

5.3 The Act (section 349) also requires the Council to prepare, adopt and publish a "Statement of Principles" setting out the Licensing Authority's approach to applications under the Act and the information it expects applicants to provide at least every three years.

5.4 The current Statement was adopted at the Full Council meeting on 02 December 2021 and was published and came into effect on 31 January 2022. The Statement must therefore be revised and republished by the 31 January 2025.

5.5 The purpose of the Statement is to guide the administration of licensing under the Act and will assist in ensuring that an appropriate balance is drawn between the interests of those wishing to provide and take part in legal gambling, and those who might be affected by such activities. The Council continues to work with the police, licence holders, responsible authorities and other agencies to achieve this objective.

5.6 The Act contains three licensing objectives that underpin the functions that the Licensing Authorities perform, and which are central to the regulatory regime. They are:

- I. preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
- II. ensuring that gambling is conducted in a fair and open way.
- III. protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.7 In September 2024 West Berkshire had nine Adult Gaming Centres, 11 Betting Premises, eight Club Machine Permits, three Family Entertainment Centres, eight Gaming Machine Permit (more than 2 machines) on premise which holds premise alcohol licence and 81 Notification of 2 or less machines with Premise Alcohol Licence. We also have 162 Small Society Lottery registrations.

## **Background**

- 5.8 When amending the Statement, the Council is required to undergo a period of consultation on the draft Statement to establish local issues of concern and to address those concerns as far as appropriate within the statement.
- 5.9 It was noted at the July 2024 Licensing Committee that the [current Statement](#) was comprehensively reviewed in 2022 to reflect the updated Guidance published by the Gambling Commission. The current Statement has not been the subject of any legal challenge or complaint and therefore remains fit for purpose. Officers proposed updating the population data in the document and Members requested that some additional information on gaming machines be included in the glossary prior to any consultation taking place. These changes are highlighted in yellow on the attached document.
- 5.10 The Licensing Committee agreed that, subject to the inclusion of the above amendments, the Statement be subjected to an eight-week consultation period between 18 July 2024 and the 12 September 2024.
- 5.11 They also agreed that a wide range of stakeholders be contacted as part of the consultation, including:
- Thames Valley Police
  - Royal Berkshire Fire and Rescue Service
  - Environmental Health
  - Health and Safety Executive
  - Gambling Commission
  - Berkshire West Safeguarding Children's Partnership
  - West of Berkshire Safeguarding Adults Board
  - Public Health
  - Health and Wellbeing Board
  - Berkshire Healthcare NHS Foundation Trust
  - Buckinghamshire, Oxfordshire and Berkshire West Integrated Care System
  - and other interested bodies (see Appendix A to the Statement)
- 5.12 The outcome of the consultation is set out in Appendix B to the report. The Council received six responses to the consultation which is a slight increase on the two responses received in relation to the consultation on the previous Statement.
- 5.13 Three of the responses were supportive of the amended policy. One sought clarification of the wording in relation to 'Exempt Lottery' in the glossary and two responses focussed on the definition of vulnerable persons in the Statement. A query was also raised about mandatory training for staff in gambling premises and the authority's objectives to permit the use of premises for gambling.
- 5.14 Amendments arising from the comments received during the consultation are set out in red text on the proposed draft Statement.

## Key Changes to the Draft Statement Following the Consultation

- 5.15 It is proposed that in relation to the Exempt Lottery the following wording be included in the glossary - add in brackets (requires to be registered with the local authority as per this section (*linking to the section*)) to avoid any ambiguity.
- 5.16 In terms of the definition of vulnerable persons the Gambling Act 2005 does not define "vulnerable persons" and neither has the Gambling Commission attempted to do so. The Commission does say that it includes:
- people who spend more money and/or time gambling that they want to.
  - people who gamble beyond their means.
  - people who may not be able to make informed or balanced decisions about gambling, for example because of health problems, learning disability, or substance misuse relating to alcohol all drugs.
- 5.17 In response to the comments raised during the consultation it is proposed that the following wording be added to the penultimate paragraph of section 2.4 "noting that people who struggle with gambling addiction may not necessarily or automatically be defined as vulnerable."
- 5.18 In terms of the query raised about the Council's objectives to permit the use of premises for gambling it was noted that The Act is a permissive piece of legislation that requires that gambling is allowed unless there is good reason that it should not i.e. it contravenes the three licencing objectives.
- 5.19 Section 153 of the explanatory notes attached to The Act sets out the principles that licensing authorities should apply when exercising their premises licensing functions. They **must** aim to permit the use of premises for gambling, in so far as the authority thinks that permission:
- accords with relevant Commission codes of practice and guidance issued by the Commission.
  - is reasonably consistent with the licensing objectives; and
  - is in accordance with the authority's three-year licensing policy.
- 5.20 The notes go on to state that under legislation repealed by the Act, it had been a requirement that the grant of certain gambling permissions should take account of whether there is unfulfilled demand for the facilities. This was the case, for example, for a casino licence under Part II of the Gaming Act 1968 or a bookmaker's permit under the Betting, Gaming and Lotteries Act 1963. Unmet demand is **not** to be a criterion that a licensing authority is permitted to take into account when considering an application for a premises licence under The Act.
- 5.21 It is therefore proposed that no amendments be made to the draft Statement in this regard.
- 5.22 In terms of making the training mandatory it is noted that it is a mandatory requirement that staff working in gambling premises operated by a business licensed by the



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Gambling Commission receive such training under the conditions and codes of practice attached to their operating licence issued by the Commission.

5.23 This would apply to, for example, casinos and betting shops. However, not all gambling premises are operated by a business that is licensed by the Gambling Commission. For example, a family entertainment centre that only provides category D gaming machines (which can be played by under 18's) operates under a permit issued by the licensing authority. The Act expressly states that conditions cannot be attached to such a permit.

5.24 It is therefore not possible to provide for mandatory training of staff who work in these premises. The inclusion of the term "best practice" in the Statement is therefore a way in which the licensing authority can set out its expectation as far as these other premises (not subject to Gambling Commission licence conditions) are concerned.

5.25 It is therefore proposed that no amendments be made to the draft Statement in this regard.

## **6 Other options considered**

6.1 None. It is a statutory requirement to review and publish this policy.

## **7 Conclusion**

7.1 Members are asked to consider the draft Statement, and the comments received during the consultation period. Members are asked to consider if any additional changes are needed and then resolve to adopt and publish the revised Statement by the 31 January 2025.

## **8 Appendices**

8.1 Appendix A – Draft Statement of Gambling Principles 2025 – 2028

8.2 Appendix B – Outcome of the Consultation

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### **Background Papers:**

- [The Gambling Act 2005](#)
- [The current Statement of Gambling Principles](#)
- [The Government White Paper : High stakes: gambling reform for the digital age](#)
- [Guidance to licensing authorities \(gamblingcommission.gov.uk\)](#)
- [Guidance to licensing authorities - Gambling Commission](#)

### **Subject to Call-In:**

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Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Scrutiny Commission or associated Committees, Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

**Wards affected:** All

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